

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOINT MEMORANDUM FOR FINAL STATUS CONFERENCE

Pursuant to the Court's Order of July 17, 2005, the parties have conferred and report to the Court as follows with respect to the issues listed in Local Rule 116.5(C)(1-9):

1. Outstanding Discovery Issues:

The parties are current with their discovery obligations under the Local Rules. There are a few additional items that the United States has agreed to provide for which the parties still need to make arrangements for inspection and copying.

Defendants McElroy and King have filed two motions for additional discovery (Dkt. ##49 & 51) and the United States has moved (with defendants' assent) for an enlargement of time until October 7, 2005, in which to file its responses to defendants' those motions.

2. Neither party currently anticipates additional discovery as a result of future receipt of information, documents or reports of examination or tests.

3. Defendants do not intend to raise a defense of public authority or insanity.

4. The United States has requested notice of alibi. Defendants contend that the description of charges and the additional information provided by the government does not identify specific times and places of the alleged offenses and thus does not comply with the notice requirements of Rule 12. Accordingly, defendants contend that no response is necessary.

5. Defendants have filed motions requiring rulings by the District Court, hearing on those motions is scheduled for October 17, 2005.

6. The parties jointly request that the conference on September 20, 2005, be treated as an Interim Status conference and that a date for a Final Status Conference be set after the determination of the pending discovery motions, allowing time for the disclosure and review of any additional materials that may be required to be produced, as discussed above in paragraph 1. The parties request that the Court schedule a hearing date for the pending discovery motions.

7. Prior to Indictment, the parties had preliminary discussions regarding the possibility of an early resolution of the case without trial. With respect to defendant Xieu Van Son, there are ongoing discussions regarding such possibility.

8. As the Court noted in its Order on Excludable Delay, dated April 6, 2005, 21 days of non-excludable time had elapsed in this case as of July 12, 2005. With the pendency of the defendants' dispositive motions, which were filed on June 30, 2005, no additional non-excludable time has elapsed.

9. The parties anticipate that trial of this matter will take 4 weeks.

Respectfully submitted,

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